

Regular Session, 2010

HOUSE BILL NO. 189

BY REPRESENTATIVE RICHARD AND SENATOR KOSTELKA

RETIREMENT/STATE EMPS: Provides for early retirement of LASERS members with actuarial reduction of benefits; requires abolition of positions vacated by early retirement and permits reestablishment and filling of such positions under limited circumstances

1 AN ACT

2 To enact R.S. 11:441.2, relative to early retirement; to enact the Early Retirement and
3 Payroll Reduction Act; to provide for a reduction in state employment and for early
4 retirement of members of the Louisiana State Employees' Retirement System; to
5 provide for eligibility, retirement benefits, restrictions on hiring new employees,
6 abolition of vacated positions, restrictions on appropriated funds, and funding; to
7 provide an effective date; and to provide for related matters.

8 Notice of intention to introduce this Act has been published
9 as provided by Article X, Section 29(C) of the Constitution
10 of Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 11:441.2 is hereby enacted to read as follows:

13 §441.2. Early Retirement and Payroll Reduction Act

14 A. Purpose. This Section shall be known as the Early Retirement and
15 Payroll Reduction Act. Its purpose is to permanently reduce the number of state
16 employees, thereby reducing payroll costs, in a manner which furthers the fiscal
17 soundness of the state and which is fair and equitable to the employees of the state.
18 The Act is intended to accomplish this purpose by encouraging voluntary early

1 retirement by the temporary reduction of retirement eligibility requirements and by
2 restricting the hiring of new employees.

3 B. Eligibility Requirements for Early Retirement. Any member of the
4 Louisiana State Employees' Retirement System may retire pursuant to the provisions
5 of this Section and shall receive the benefits set forth in Subsection C of this Section
6 if he has attained at least age fifty and has at least ten years of service credited to his
7 retirement account, exclusive of any military service credit.

8 C. Retirement Benefits. Any person who retires pursuant to the provisions
9 of this Section shall receive an annual retirement allowance consisting of an
10 actuarially reduced benefit. The annual benefit shall be calculated in accordance
11 with the provisions of R.S. 11:444(A); however, the benefit of any such person shall
12 be actuarially reduced to account for early retirement. In no event shall the annual
13 retirement allowance exceed one hundred percent of average compensation as
14 specified by R.S. 11:231. Any person who retires pursuant to the provisions of this
15 Section shall not be eligible to participate in the Deferred Retirement Option Plan or
16 the Initial Benefit Option as set forth in R.S. 11:446(A)(5).

17 D. Application of Other Early Retirement Provisions. If any person is
18 eligible for early retirement pursuant to this Section or under the early retirement
19 provisions of R.S. 11:441(A)(1)(d), he may retire under the applicable provision;
20 however, the restrictions on refilling employee positions as set forth in Subsection
21 E of this Section shall also apply to positions vacated by early retirement under R.S.
22 11:441(A)(1)(d). Any such person who retires pursuant to this Section or pursuant
23 to R.S. 11:441(A)(1)(d) shall not be eligible for reemployment by the state of
24 Louisiana or any agency thereof for a period of two years from the date of
25 retirement.

26 E. Restrictions on Employee Positions and Payroll. (1) It is the intention of
27 this Section to effect a permanent and substantial reduction in the number of state
28 employees and in the state payroll. Accordingly, any position which becomes vacant
29 as a result of a person's retirement pursuant to this Section or pursuant to R.S.

1 ~~11:441(A)(1)(d) shall be abolished and shall be reestablished only upon the~~
2 ~~authorization, jointly by the commissioner of administration and the director of state~~
3 ~~civil service with respect to the executive branch, the Legislative Budgetary Control~~
4 ~~Council with respect to the legislative branch, or the Judicial Budgetary Control~~
5 ~~Board with respect to the judicial branch. In no event shall more than ten percent of~~
6 ~~the positions in each respective branch of state government which have become~~
7 ~~vacated as a result of retirements made pursuant to this Section or pursuant to R.S.~~
8 ~~11:441(A)(1)(d) be reestablished over any five-year period. In addition, no more~~
9 ~~than one-third of the positions abolished pursuant to this Section in each branch of~~
10 ~~state government in any one fiscal year may be reestablished during that fiscal year.~~

11 ~~(2) The limitations set forth in Paragraph (1) of this Subsection shall be~~
12 ~~inapplicable with respect to specific individual cases whenever, as to the executive~~
13 ~~branch of state government, either the commissioner of administration or the~~
14 ~~governor act together with the director of state civil service to certify jointly that an~~
15 ~~emergency need exists; as to the legislative branch of state government, the~~
16 ~~Legislative Budgetary Control Council certifies that an emergency need exists and~~
17 ~~such need is also certified and approved jointly by the president of the Senate and the~~
18 ~~speaker of the House of Representatives; and as to the judicial branch of state~~
19 ~~government, the Judicial Budgetary Control Board certifies that an emergency need~~
20 ~~exists and such need is also certified and approved by the chief justice of the~~
21 ~~Louisiana Supreme Court.~~

22 ~~(3) Positions which are reestablished shall be filled only by appointment of~~
23 ~~existing employees from within the same agency whenever such agency has~~
24 ~~qualified personnel to fill such positions. Positions becoming vacant by such~~
25 ~~appointment of existing employees shall be abolished, subject to the same~~
26 ~~reestablishment conditions.~~

27 ~~(4) Whenever a position is abolished, the appointing authority of the agency~~
28 ~~in which the position is funded shall notify the state treasurer of the unspent portion~~
29 ~~of state general funds appropriated to pay for that position. The state treasurer shall~~

1 withhold from that agency's state general fund appropriation an amount equal to the
2 unspent state general fund appropriation, including employer retirement
3 contributions, for the position abolished. If the position is reestablished, the state
4 treasurer shall return to the agency's state general fund appropriation an amount
5 sufficient to pay for the position from the date of reestablishment to the end of the
6 fiscal year in the proportion and to the extent the position is to be funded from the
7 state general fund.

8 (5) Notwithstanding any other provision of law to the contrary, no position
9 which is vacated as a result of retirement pursuant to this Section or to R.S.
10 11:441(A)(1)(d) shall be filled unless such position is reestablished as provided in
11 this Subsection and such hiring is authorized:

12 (a) Jointly by the commissioner of administration and the director of state
13 civil service with respect to the executive branch of state government. The
14 commissioner of administration shall provide the initial approval.

15 (b) By the Legislative Budgetary Control Council with respect to the
16 legislative branch of state government.

17 (c) By the Judicial Budgetary Control Board with respect to the judicial
18 branch of state government.

19 (6) The governor shall prepare, as part of the executive budget, a summary,
20 by agency, of the number of positions abolished pursuant to this Section as well as
21 positions abolished and refilled pursuant to Paragraph (5) of this Subsection.

22 F. Exception. Notwithstanding any other provision of law to the contrary,
23 the provisions of this Section which abolish vacated positions shall not be applicable
24 to any positions of the LSU Health Sciences Center at Shreveport, E.A. Conway
25 Medical Center in Monroe, or Huey P. Long Medical Center in Pineville, or to
26 Department of Public Safety and Corrections security officers or probation and
27 parole officers.

28 G. The provisions of the Early Retirement and Payroll Reduction Act of
29 2001 (Act No. 844 of the 2001 Regular Session of the Legislature), the Early

1 Retirement and Payroll Reduction Act of 2004 (Act. No. 194 of the 2004 Regular
2 Session of the Legislature), and the Early Retirement and Payroll Reduction Act of
3 2006 (R.S. 11:441.1) are not affected by this Section, and the provisions of those
4 Acts remain in effect, particularly the provisions of those Acts relating to the
5 elimination, reestablishment, and filling of vacated positions.

6 H. It is the express intent of the legislature in enacting this Section that the
7 provisions of Subsection E are severable from the remaining Subsections of this
8 Section. Further, it is the intent of the legislature in enacting this Section that any
9 declaration, legal opinion, or court ruling declaring Subsection E of this Section
10 unconstitutional shall not in and of itself cause the remaining Subsections to be
11 deemed void, unenforceable, or unconstitutional.

12 Section 2.(A) This Act shall become effective on July 1, 2010; if vetoed by the
13 governor and subsequently approved by the legislature, this Act shall become effective on
14 July 1, 2010, or on the day following such approval by the legislature, whichever is later.

15 (B) R.S. 11:441.2 as enacted by this Act, except for Subsection E thereof, shall be
16 null, void, and of no effect on and after July 1, 2013.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Richard

HB No. 189

Abstract: Provides for early retirement of members of the La. State Employees' Retirement System (LASERS) who have attained age 50 and have at least 10 years of service credit. Requires an actuarial reduction of benefits for such members. Also requires that positions in state government vacated by such members be abolished and shall not be reestablished or filled except in accordance with procedures in proposed law. Effective July 1, 2010, and ceases to be effective July 1, 2013.

Relative to the La. State Employees' Retirement System (LASERS):

Proposed law enacts the "Early Retirement and Permanent Payroll Reduction Act", to be effective from July 1, 2010, through June 30, 2013. Provisions are substantially the same as the Early Retirement and Payroll Reduction Acts of 2001, 2004, and 2006 except that the time period for early retirement in those Acts was through Dec. 31, 2002, Dec. 31, 2004, and Dec. 31, 2008, respectively. Provisions of the 2001, 2004, and 2006 Acts prohibiting reestablishment of positions that were abolished after being vacated by early retirement during those time periods, except pursuant to procedures in the Acts (which are the same as those in proposed law), remain effective.

Proposed law states that its purpose is to permanently reduce the number of state employees, thereby reducing payroll costs, in a manner which furthers the fiscal soundness of the state and which is fair and equitable to state employees.

Retirement provisions:

Proposed law allows any member of LASERS to retire and receive retirement benefits if he has attained at least age 50 and has at least 10 years of service credit, exclusive of any military service credit, when he retires.

Proposed law authorizes members who retire pursuant to proposed law to receive annual benefits that are calculated in accordance with present law (a retirement benefit equal to 2-1/2% of average compensation, times the number of years of creditable service) and further requires the actuarial reduction of such retirees' benefits to account for early retirement. Prohibits the annual benefit from exceeding 100% of compensation.

Proposed law prohibits members who retire pursuant to proposed law from participating in the Deferred Retirement Option Plan (DROP) or from receiving the alternative benefit option known as the Initial Benefit Option (IBO).

Restrictions on employee positions and payroll:

Proposed law provides that a member, if eligible, can retire under the provisions of proposed law or the 20-year early retirement provisions of present law (R.S. 11:441(A)(1)(d)). Provides that the employment restrictions of proposed law apply to positions vacated by reason of the early retirement provisions of present law and of proposed law. Provides that any person retiring under such provisions of present law or proposed law during such period is not eligible for reemployment by the state or any agency thereof.

Proposed law provides that any position which becomes vacant as a result of an early retirement pursuant to proposed law or present law (as described above) shall not be filled and must be abolished and shall only be filled or reestablished if approved:

- (1) Jointly by the commissioner of administration and the director of state civil service with the commissioner making the initial approval in filling positions (executive branch).
- (2) By the Legislative Budgetary Control Council (legislative branch).
- (3) By the Judicial Budgetary Control Board (judicial branch).

Proposed law prohibits reestablishing, over any five-year period, more than 10% of the positions which have become vacated pursuant to proposed law or present law (as described above) and prohibits more than 1/3 of the positions abolished pursuant to proposed law in each branch of state government during any one fiscal year from being reestablished during that year, unless in specific individual cases:

- (1) Either the commissioner of administration or the governor acts together with the director of state civil service to jointly certify that an emergency need exists (executive branch).
- (2) The Legislative Budgetary Control Council certifies that an emergency need exists, and the need is also certified and approved jointly by the president of the Senate and speaker of the House (legislative branch).
- (3) The Judicial Budgetary Control Board certifies that an emergency need exists, and the need is also certified and approved by the chief justice of the La. Supreme Court (judicial branch).

Proposed law prohibits filling a position so vacated unless so reestablished and unless the hiring is also authorized as provided above for reestablishing the position. Prohibits filling positions that are reestablished except by moving qualified existing employees from within the same agency when the agency has qualified personnel to fill the positions and provides that the positions becoming vacant by such movement must be abolished, subject to the reestablishment procedures.

Proposed law requires the appointing authority of an agency in which a position is abolished to notify the state treasurer of the unspent portion of state general funds appropriated to pay for that position and requires the state treasurer to withhold from that agency's state general fund appropriation an amount equal to the unspent state general fund appropriation, including employer retirement contributions, for the position abolished. Proposed law requires the state treasurer to return to the agency's state general fund appropriation an amount sufficient to pay for any position that is reestablished from the date of reestablishment to the end of the fiscal year in the proportion and to the extent the position is to be funded from the state general fund.

Proposed law requires the governor to include, as part of the executive budget, a summary of the number of positions abolished by the agency pursuant to proposed law and any positions abolished and refilled pursuant to proposed law.

Proposed law provides that the provisions of proposed law relating to the elimination of positions vacated by early retirees shall not apply to the LSU Health Science Center at Shreveport, E.A. Conway Medical Center in Monroe, or the Huey P. Long Medical Center in Pineville, or to Dept. of Public Safety and Corrections security officers or probation and parole officers.

Proposed law specifies that the Early Retirement and Payroll Reduction Acts of 2001, 2004, and 2006 shall not be affected by proposed law, and that the provisions of those Acts remain in effect, particularly the provisions abolishing positions vacated during the effective periods of those Acts and provisions prohibiting reestablishment and filling of such positions except pursuant to procedures in those Acts.

Effective July 1, 2010, and ceases to be effective July 1, 2013, except that the provisions of proposed law relating to the elimination, reestablishment, and filling of vacated positions shall continue to remain in effect after such date.

(Adds R.S. 11:441.2)